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EXAMINER	
NGUYEN, BINH AN DUC	
ART UNIT	PAPER NUMBER
3714	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/719,383	FRAYMAN, FELIX	
	Examiner	Art Unit	
	Binh-An D. Nguyen	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 November 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-97* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-97* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *11/21/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 58 is objected to because of the following informalities:

In claim 58, line 1, the semicolon (;) should be replaced by a comma (,).

Appropriate correction is required.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-38 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As clarified in Bilski, (see *In re Bilski*, 545 F.3d 943, 88 USPQ2d 1385 (Fed. Cir. 2008)), the test for a method claim is whether the claimed method is (1) tied to a particular machine or apparatus, or (2) transforms a particular article to a different state or thing. This is called the "machine-or-transformation test". There are two corollaries to the machine-or-transformation test. First, a mere filed-of-use limitation is generally insufficient to render an otherwise ineligible method claim patent-eligible. This means the machine or transformation must impose meaningful limits on the method claim's scope to pass the test. Second, insignificant extra-solution activity will not transform an unpatentable principle to a patentable process. This means reciting a specific machine or a particular transformation of a specific article in an insignificant step, such a data gathering or outputting, is not sufficient to pass the test.

An example of a method claim that would not qualify as a statutory process would be a claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim should positively recite the other statutory class (the thing or product) to which it is tied, *for example* by identifying the apparatus that accomplishes the method steps, or positively recite the subject matter that it is being transformed, *for example* by identifying the material that is being changed to a different state. (emphasis added)

In keeping with the requirement that a claim should positively recite the particular machine or apparatus to which it is tied, the following operations procedure is set forth:

"Identifying the apparatus" requires that the process claim explicitly recite the particular machine or apparatus, or recite a step that inherently involves the use of a particular machine or apparatus.

The definition of an "inherent tie" is as follows:

The step requires a particular machine or apparatus such that the step cannot be performed mentally or manually in a manner the reasonable accomplishes the intended purpose of the recited invention, as claimed, without the use of a structure.

In this case, claims 1-38 lack the identification of the apparatus that performs the claimed method. Accordingly, the claim is non-statutory under 35 U.S.C. 101.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 9-10, 12-17, 19-26, 29-30, 32-37, 39-45, 48-49, 51-56, 58-65, 68-69, 71-76, 78-85, 88-89, and 91-96 are rejected under 35 U.S.C. 102(b) as being anticipated by Inselberg (6,434,398).

Referring to claim 1, Inselberg teaches a method of performing and delivering analysis of a sports activity, comprising: providing input via a communication device of a user (2:18-40); interpreting the input provided by the user (3:22-4:4); creating a transactional record of the sports activity based on the input provided by the user (4:59-5:2); analyzing the transactional record of the sports activity to generate analysis information of the sports activity (4:66-5:2); receiving a request for the analysis information of the sports activity; and providing the analysis information of the sports activity to a requester (4:5-40).

Referring to claim 19, Inselberg teaches a method of performing and delivering analysis of an activity, comprising: receiving input from a communication device of a user (2:18-40); processing the input provided by the user (4:66-5:2); generating analysis information of the activity based on the input provided by the user (3:22-4:4; 4:66-5:2); and providing the analysis information of the activity to a requester (4:5-40).

Referring to claim 39, Inselberg teaches a program code storage device, comprising: a machine-readable medium; and machine-readable program code stored on the machine-readable medium, the machine-readable program code having instructions to receive input relating to an activity from a communication device of a user

(3:22-4:4); process the input provided by the user (4:66-5:2); generate analysis information of the activity based on the input provided by the user; and provide the analysis information of the activity to a requester (4:5-40).

Referring to claim 58, Inselberg teaches a system for performing and delivering analysis of an activity, comprising: a receiver to receive input from a communication device of a user (2:18-40); a processing unit to process the input provided by the user (4:66-5:2) and to generate analysis information of the activity based on the input provided by the user (3:22-4:4; 4:66-5:2); and a transmitter to provide the analysis information of the activity to a requester (4:5-40).

Referring to claim 78, Inselberg teaches system for performing and delivering analysis of an activity, comprising: means for receiving input from a communication device of a user (2:18-40; 3:22-67); means for processing the input provided by the user (3:44-56; 4:66-5:2); means for generating analysis information of the activity based on the input provided by the user; and means for providing the analysis information of the activity to a requester (4:5-40; 3:44-56).

Referring to claims 2, 22, 61, and 81, Inselberg teaches storing the analysis information of the sports activity in an analysis information database (4:21-24; 4:67-5:2).

Referring to claims 3, 23, 42, 62, and 82, Inselberg teaches the requester is the user (4:8-29).

Referring to claims 4, 24, 43, 63, and 83, Inselberg teaches the analysis information is provided to the user via voice and/or graphics (4:20-29).

Referring to claims 5, 25, 44, 64, and 84, Inselberg teaches interpreting the input provided by the user includes at least one of interpreting voice input, and interpreting communication device input entries (4:5-19).

Referring to claims 6, 26, 45, 65, and 85, Inselberg teaches interpreting voice input utilizes a speaker pre-recorded custom utterances recognition engine (4:8-19).

Referring to claims 9, 29, 48, 68, and 88, the limitation of performing statistical analysis of the sports activity is inherent from Inselberg's teaching of expert commentary of the game (2:27-30).

Referring to claims 10, 30, 49, 69, and 89, the limitation of analyzing the transactional record of the sports activity to generate the analysis information of the sports activity includes scoring characterization or player performance characterization is inherent from Inselberg's teaching of expert commentary of the game (2:27-30) (2:27-30).

Referring to claims 12, 32, 51, 71, and 91, the limitation of providing the analysis information of the sports activity to the requester instantaneously delivering the analysis information at a time of request is inherent from Inselberg's teaching of expert commentary of the game being received by the fan (2:27-30).

Referring to claims 13, 33, 52, 72, and 92, the limitation of providing the analysis information of the sports activity to the requester includes: calculating temporal statistics of game periods; establishing significance level thresholds for comparisons of game statistics between the game periods; detecting when the significance level thresholds are exceeded; and logging the exceeded significance level thresholds for delivery to the

user, are inherent from Inselberg's teaching of expert commentary of the game being received by the fan (2:27-30).

Referring to claims 14, 34, 53, 73, and 93, Inselberg teaches the analysis information of the sports activity is provided to a plurality of requesters (2:27-30).

Referring to claims 15, 35, 54, 74, and 94, Inselberg teaches providing an advertisement along with the analysis information of the sports activity (2:34-40; 3:58-67).

Referring to claims 16, 36, 55, 75, and 95, Inselberg teaches a plurality of communication devices of a plurality of users provide the input (3:22-43).

Referring to claims 17, 37, 56, 76, and 96, Inselberg teaches comparing the inputs from the plurality of users; and rewarding the users based on the inputs received (2:41-54).

Referring to claims 20, 40, 59, and 79, Inselberg teaches generating a transactional record of the activity based on the input provided by the user (3:22-4:4; 4:66-5:2); and analyzing the transactional record of the activity to generate the analysis information of the activity.

Referring to claims 21, 41, 60, and 80, Inselberg teaches the activity is a sports activity (2:18-24).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 7, 8, 11, 18, 27, 28, 31, 38, 46, 47, 50, 57, 66, 67, 70, 77, 86, 87, 90, and 97 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inselberg (6,434,398) in view of Campaigne (7,153,211).

Inselberg teaches all limitations of claims 1-6, 9-10, 12-17, 19-26, 29-30, 32-37, 39-45, 48-49, 51-56, 58-65, 68-69, 71-76, 78-85, 88-89, and 91-96 as being addressed above.

Referring to claims 7, 8, 27, 28, 46, 47, 66, 67, 86, and 87, Inselberg, further teaches parsing the input provided by the user (4:59-5:2). Regarding the limitation of free-form natural language interpretation grammar (claims 7, 27, 46, 66, and 86), and free-form natural language interpretation grammar is statistical language model grammar (claims 8, 28, 47, 67, and 87), since Inselberg teaches voice recognition being used as an interface for the communication device (4:5-19), these limitations are inherent from Inselberg's since the voice recognition must analyze grammar and/or vocabulary in order to process user's voice and incorporate it to the interactive communication. Further, Inselberg does not explicitly teach performing error correction on the input provided by the user based on at least one of a predefined vocabulary and grammar for user communication. Campaigne, however, teaches a method and system to optimize group achievement comprises creating the transactional record of the sports activity includes parsing the input provided by the user and performing error correction on the input provided by the user based on at least one of a predefined vocabulary and

grammar for user communication (7:60-8:3). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the error correction of the user's input, as taught by Campaigne, to the interactive game of Inselberg to come up with an interactive game system and method that enhances the accuracy of user's input thus makes it more enjoyable and attract more users.

Referring to claims 18, 28, 47, 67, and 87, Inselberg does not explicitly teach the limitations of time-stamping each of the inputs received from each of the plurality of communication devices; and reconstructing a game progression based on a conglomeration of the inputs from the plurality of communication devices (claims 18, 38, 57, 77, and 79). Campaigne, however, teaches a method and system to optimize group achievement comprises time-stamping each of the inputs received from each of the plurality of communication devices (7:43-49); and reconstructing a game progression based on a conglomeration of the inputs from the plurality of communication devices (10:20-67). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide the time-stamping of the user's input, as taught by Campaigne, to the interactive game of Inselberg to come up with an interactive game system and method that provide accurate record of user's inputs thus makes it easier for the audit or verification of the interactive game's database.

Referring to claims 11, 31, 50, 70, and 90, Inselberg does not explicitly teach the limitations of performing pattern detection on the transactional record of the sports activity includes: describing a pattern by defining a triggering event in terms of at least one of game transaction records and game analysis records; and defining a statistical

significance level for triggering the pattern. Campaigne, however, teaches a method and system to optimize group achievement wherein the reporter (or fan) could identify and report a game pattern or successful sequence resulting in points scored by the game player (13:36-64). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the game analysis of Inselberg with Caimpaigne's to come up with an interactive game system and method that enhances accuracy of game reports.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Binh-An D. Nguyen whose telephone number is 571-272-4440. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dmitry Suhol/
Supervisory Patent Examiner, Art Unit 3714

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